IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 28TH FEBRUARY 2007 / 9TH PHALGUNA 1928

WP(C).No. 26522 of 2005(G)

PETITIONER:

VARAMANGALATH HAMZA, S/O.MOIDUTTY HAJI,
VARAMANGALATH HOUSE, POST KUNDURKARA,
VIA PATTAMBI, PALAKKAD DISTRICT.

BY ADV. SMT.T.D.RAJALAKSHMI
SRI.E.R.VENKATESWARAN

RESPONDENTS:
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1. **THE KERALA AGRO INDUSTRIES CORPORATION LTD., REPRESENTED BY THE REGIONAL ENGR., REGIONAL OFFICE, COIMBATORE ROAD, PALAKKAD.**

2. **THE DEPUTY TAHSILDAR (RR), OTTAPALAM.**

BY ADV. SRI.A.M.SHAFFIQUE
SRI.E.K.NANDAKUMAR, SC for R1
SRI.A.K.JAYASANKAR NAMBIAR
BY GOVT.PLEADER SMT. M.K.PUSHPALATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.26522/2005 G

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF JUDGMENT IN O.P.NO.2098 OF 1991 DTD. 10/12/2002 OF THIS HON'BLE COURT.**

EXT.P2: **COPY OF NOTICE OF ATTACHMENT DTD. 18/07/2005 ISSUED BY THE 2ND RESPONDENT.**

EXT.P3: **COPY OF LETTER DTD. 16/03/2006 SENT BY THE DL.ENGINEER OF THE 1ST RESPONDENT CORPN. TO ITS M D, ENCLOSING THE REPRESENTATION OF THE PETITIONER.**

1ST RESPONDENT'S EXHIBITS:

EXT.R1(A): **COPY OF THE LETTER DTD. 02/06/2003 INTIMATING THE PETITIONER.**

EXT.R1(B): **COPY OF THE LETTER DTD. 16/07/2003 BY THE PETITIONER.**

EXT.R1(C): **COPY OF THE LETTER DTD. 25/10/2003 BY THE PETITIONER.**

EXT.R1(D): **COPY OF THE LETTER DTD. 12/11/2003 BY THE PETITIONER.**

EXT.R1(E): **COPY OF THE REPLY DTD. 29/11/2003 BY THE PETITIONER.**

EXT.R1(F): **COPY OF THE LETTER ISSUED TO THE TAHASILDAR, OTTAPALAM DTD. 21/01/2004.**

EXT.R1(G): **COPY OF THE LETTER DTD. 09/03/2006 BY THE PETITIONER .**

EXT.R1(H): **COPY OF THE LETTER DTD. 21/03/2006 BY THE PETITIONER.**

/TRUE COPY/

KSS

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 26522 OF 2005-G

JUDGMENT

The petitioner is in default to the 1st respondent Corporation in relation to a loan availed of by him from the said respondent, for purchasing a Power Tiller. According to him, the Tiller was not properly working and therefore, he could not put it to proper use. He had earlier approached this Court, by filing O.P.No.2098/1991. The said O.P was disposed of by Ext.P1 judgment dated 10.12.2002, by directing the petitioner to approach the 1st respondent with a representation and also directing the 1st respondent to pass appropriate orders on it. The petitioner submits, though he filed a representation and was waiting for a reply, he has been served with only revenue recovery notices. Hence this Writ Petition, seeking appropriate reliefs.

2. The 1st respondent has filed a counter affidavit, stating that the petitioner is a chronic defaulter and he was given chance on several occasions to settle the loan account under the various schemes, including the one-time settlement scheme. But, he never responded. It is also submitted that pursuant to Ext.P1 judgment, the petitioner submitted a representation after a lapse of one year and it was considered and a reply

was also given to him, which is produced as Ext.R1(e). In that reply also, the petitioner submits, the petitioner was given a chance to settle the loan account under the OTS scheme. When left with no other alternative, the revenue recovery machinery was moved and finally the property has been attached, as per Ext.P2 notice. There is nothing illegal or irregular with Ext.P1, it is submitted.

3. Heard the learned counsel on both sides. The petitioner is an admitted defaulter and therefore, I find nothing illegal with Ext.P2. But, the learned counsel for the petitioner prayed for instalment facility, to pay off the amount due to the 1st respondent. The learned counsel for the 1st respondent submitted that the balance amount outstanding is Rs.56,121/- as on 18.7.2005. The petitioner is liable to pay interest for the subsequent period and also 5% collection charges.

4. The petitioner may pay the amount due in six equal monthly instalments. The first instalment shall be paid on or before 15.3.2007, treating the amount due as Rs.56,121/-. In the meantime, the 1st respondent shall inform the petitioner the amount which is payable by him now. The petitioner shall pay the amount so informed in five equal instalments. The instalments shall be paid on or before the 15th of the succeeding months. If there is any default, the respondents can proceed with the proceedings

initiated as per Ext.P2.

The Writ Petition is disposed of as above.

28th February, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/